

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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HUSTON BELVETT,

Plaintiff,

-against-

**STIPULATION AND
ORDER OF
SETTLEMENT AND
DISCONTINUANCE**

09 CV 8090 (VM)(AJP)

CITY OF NEW YORK; Commissioner MARTIN F.
HORN; Chief of Department CAROLYN THOMAS;
Deputy Commissioner RICHARD R. WHITE; Warden
EDMUND DUFFY; Warden EMMANUEL BAILEY;
Assistant Deputy Warden CHARLTON LEMON, Shield #
109; Captain THEO PRIMM, Shield # 1497, Correction
Officer SHAWN GRANT, Shield 1213; Correction Officer
DARREN ROBINSON, Shield # 3301; Correction Officer
KEITH MORGAN, Shield # 17315; Correction Officer
EDWIN RUIZ, Shield # 12303; Correction Officer
DANIEL DIPIERRI, Shield # 18192; Correction Officer
MORRIS JONES, Shield # 13717; Correction Officer
LEROY HAZZARD, Shield # 1686; Correction Officer
THOMAS PHILLIPS, Shield # 18043; Captain ROSNEY
SINGLETERY, Shield # 1004; and Correction Officer John
Doe #2,

Defendants.
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WHEREAS, plaintiff commenced this action by filing a complaint in the United States District Court for the Southern District of New York, on or about September 22, 2009, alleging excessive force, failure to provide necessary medical care and a municipal policy and practice of acceptance of excessive force, in violation of 42 U.S.C. § 1983;

WHEREAS, defendants have denied any and all liability arising out of plaintiff's allegations; and

WHEREAS, some of the parties now desire to resolve the issues raised in this litigation, without further proceedings and without admitting any fault or liability;

NOW, THEREFORE, IT IS HEREBY STIPULATED AND AGREED, by and between the undersigned, as follows:

1. Plaintiff hereby agrees to withdraw, with prejudice, and without costs, expenses, or fees in excess of the amounts specified in paragraph "3" below, all the claims asserted against defendants City of New York, Martin Horn, Carolyn Thomas, Richard White, Edmund Duffy, Emmanuel Bailey, Theo Primm, Shawn Grant, Daniel DiPierri, Morris Jones, Leroy Hazzard, Thomas Phillips, and Rosney Singletary, each individually and in their official capacity as employees of the New York City Department of Corrections; their successors or assigns, and all present and former officials, employees, representatives and agents of the New York City Department of Corrections ("DOC") ("Released Parties") from any and all claims, liabilities and/or causes of action which Plaintiff has or may have against any of the Released Parties based on any act, omission, event or occurrence occurring on or about October 5, 2008 and/or November 5, 2008, any and all claims which were or could have been alleged by Plaintiff in this action arising out of the events alleged in the complaint herein, including all claims for attorneys' fees and costs, except "released parties" does not include Charlton Lemon, Shield # 109; Darren Robinson, Shield # 3301, or Edwin Ruiz, Shield # 12303 and plaintiff does not hereby release or withdraw any claims against Charlton Lemon, Shield # 109; Darren Robinson, Shield # 3301, or Edwin Ruiz, Shield # 12303.

2. Plaintiff may continue to pursue this action against Charlton Lemon, Shield # 109; Darren Robinson, Shield # 3301, and Edwin Ruiz, Shield # 12303.

3. In consideration for the above, the City of New York hereby agrees to pay plaintiff the gross sum of three-hundred-fifty-thousand dollars and no cents (\$350,000.00), which includes attorneys' fees and costs. The City of New York shall issue one check made payable to "Emery Celli Brinckerhoff and Abady, LLP as attorneys for Huston Belvett" in the amount of three-hundred-fifty- thousand dollars (\$350,000.00).

4. Plaintiff shall execute and deliver to Released Parties' attorney, the Corporation Counsel of the City of New York, Michael A. Cardozo, all documents necessary to effect this settlement, including, without limitation, a release based on the terms of paragraphs "1" "2" and "3" above, and an affidavit concerning liens.

5. Nothing contained herein shall be deemed to be an admission by the Released Parties that they have in any manner or way violated plaintiff's rights, or the rights of any other person or entity, as defined in the constitutions, statutes, ordinances, rules or regulations of the United States, the State of New York or the City of New York, or any other rules, regulations or bylaws of any department or subdivision of the City of New York and/or the DOC. This stipulation is not related to any other litigation or settlement negotiation.

6. Nothing contained herein shall be deemed to constitute a policy or practice of the City of New York and/or the DOC.

7. This Stipulation and Order of Settlement and Discontinuance contains all the terms and conditions agreed upon by the parties hereto, and no oral agreement entered into at any time nor any written agreement entered into prior to the execution of this Stipulation and Order of Settlement and Discontinuance regarding the subject matter of the instant proceeding shall be deemed to exist, or to bind the parties hereto, or to vary the terms and conditions contained herein.

Dated: New York, New York
November 8, 2010

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MICHAEL A. CARDOZO
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By:



ELIZABETH S. SAYLOR (ES 8091)

By:



PHYLLIS CALISTRO (PC 5527)
Senior Counsel

SO ORDERED:

U.S.D.J.